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ABSTRACT

This study examined the recording of special educational needs as required by the 1980 and 1981 Education Acts of Scotland, focusing on differing criteria for opening Records of Needs. The study conducted a national survey over 4 sample months of recording activity, interviewed key informants (usually a school's principal psychologist or education officer responsible for special needs) concerning four standard vignettes of representative pupils with special educational needs, and tested the feasibility of a proposed model. The national survey covered 767 recorded children, of whom three-fourths had records opened at the preschool and primary school age and one-fourth at the secondary level. The study found an increase over the past 5 years in the numbers of recorded pupils in mainstream settings. The interviews with key informants found that the decision to open a Record of Needs involved such factors as the level of adaptation required in relation to the physical environment and the curriculum and the level of specialized resources and support required. A model is presented which replaces the term "special educational needs" with "educational support needs" and offers a level of needs matrix encompassing: (1) the physical environment; (2) the curriculum and how it is delivered; and (3) the level of support required to engage optimally with the curriculum. (Contains 10 references.) (DB)

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THE SCOTTISH OFFICE
Education and Industry Department

INTERCHANGE

No 40

Criteria for Opening Records of Needs

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Criteria for Opening Records of Needs

George O B Thomson, Mary E Stewart and Kathleen M Ward

The University of Edinburgh

This study at The University of Edinburgh was commissioned by The Scottish Office Education and Industry Department (SOEID), formerly the Scottish Office Education Department (SOED). It was known there were variations in practice in the opening of Records of Needs in different areas of Scotland. The aim was to investigate the factors which currently trigger the opening of Records of Needs. Thereafter the team was to consider what advice could be offered to foster more appropriate and consistent approaches to decisions about opening Records of Needs. Both qualitative and quantitative methods were used to collect data. These led to the formulation of a decision tree and criteria matrix which the authors believe may assist education authorities in the fulfilment of their statutory duties.

However, as the steps of the decision tree are not all consistent with the statutory requirements in relation to Recording, The Scottish Office has provided a summary of the legal context and a decision model derived from this so that education authorities can adopt best practice. The Scottish Office sections are in shaded boxes in the main text.

The context of the research

The special educational needs provisions of the Education (Scotland) Act 1980 (as amended) were influenced, in part, by the 1978 HM Inspectorate Report, *The Education of Pupils with Learning Difficulties in Primary and Secondary Schools in Scotland*. This report introduced the idea that learning difficulties were as much a product of the curriculum as of factors intrinsic to the child. Of greater influence were the recommendations of the Warnock Committee and a number of these were incorporated into the legislation (The Education Act 1981 for England and Wales, The Education (Scotland) Act 1981 for Scotland) which had an uncontroversial passage on to the statute book.

The philosophical objectives of the legislation may be regarded as threefold. These were:

1) to minimise the distinction in education between children with handicaps and others;
2) to replace a system based on statutory handicap by individual profiles of need; and
3) to increase parental participation in decision-making.

The legislative context

Education authorities have a general duty under section 1(1) of the Act to secure that there is made for their area adequate and efficient provision of school education, including provision for special educational needs.

Section 1(5)(d) defines what is meant by special educational needs. A child or young person has special educational needs if he has a learning difficulty that calls for provision for special educational needs to be made for him. It also clarifies what the categories of learning difficulty are. A child of school age or a young person has a learning difficulty if he has significantly greater difficulty in learning than the majority of those of his age or if he suffers from a disability which prevents or hinders him from making use of educational facilities of the kind provided generally for pupils of his age in education authority schools

for the area to which he belongs. A child under five has a learning difficulty if he falls within either of these categories or would be likely to fall within either once he reached school age because no provision was made for his special educational needs before then. The fact that a child or young person is, or will be, taught in a language other than that spoken in his home does not of itself mean that he has a learning difficulty.

Provision for special educational needs is defined by section 1(5)(c) of the Act as educational provision for the child or young person that is additional to or different from that made generally for those of his age in the education authority schools for the area to which he belongs. In the case of a child below school age, it is defined as such educational provision as is appropriate to the child's special educational needs.

Section 60(2) places a duty on an education authority to establish which children of school age belonging to its area, and which children below that age but at least two who have come to its attention as having or appearing to have special educational needs, have special educational needs which are pronounced, specific or complex and are such as require continuing review, and to open and keep a Record of Needs of each child. The section also gives an education authority power to follow this process for children belonging to its area who are below two and for young persons belonging to its area (provided the young person concerned, or his parent, requests the authority to do so).

Section 61, [subsections (1) and (7)], requires an education authority to carry out a process of observation and assessment before it may lawfully decide whether to open a Record of Needs for a child or young person.

Section 61(6) places a duty on the education authority for the area to which the child belongs to comply with a request by a parent to assess the child for the purposes of considering whether the child has special educational needs such as require a Record of Needs, unless the authority considers that request unreasonable.

Education authorities have responded with variable practice to the requirements of the Education (Scotland) Act 1980 (as amended). Variability has been evident most notably in terms of whom to record and where to place, as well as in the mechanics of the process.

The need for a more unified approach to the opening of Records of Needs throughout Scotland may be seen to derive from a number of sources. These include:

- studies on the impact of the legislation, such as the Audit Commission (1992); Goacher B, Evans J, Welton J and Wedell K (1988); and Thomson G O B, Riddell S and Dyer S (1989);

- the variability in recording rates across education authorities and increased number of recorded pupils in education authority and grant-aided schools (The Scottish Office Statistical Bulletin, 1995), with consequent pressures from education authority professional staff for clearer guidance on criteria for recording;
- the demands from parents;
- the publication in England of the Code of Practice 1994 which laid before the professional and lay public a set of guidelines on procedures to be adopted in the identification and assessment of special educational needs, as well as criteria for opening a Statement of Needs; and
- the related publication in Scotland of the Draft Circular 1994a which, whilst updating and improving upon earlier guidance, leaves unanswered the question of criteria to be used for recording, although it indicated the research initiative which is the subject of this report.

Surveys have consistently shown a wide variability in the practice of recording.

Why does this variability exist and can it be reduced?

Research Methods

A central feature of the project was the involvement of key informants from the professional groups in the research process. The research was in three parts:

1) a **national survey** of four sample months of recording activity.
2) **interviews with key informants** (normally the Principal Psychologist, the Education Officer with responsibility for special needs and, sometimes, the Adviser in Learning Support) about
   a) a 1 in 7 focused sample of the national data set (117 children) and
   b) four vignettes of representative pupils with special educational needs

   The aim was to elicit the criteria they had used or would use in considering whether to open a Record of Needs.
3) **testing** the feasibility of a proposed model, first at a national seminar and thereafter in all authorities.

Records of Needs: National patterns

The national survey covered 767 recorded children— itself a reflection of the increase in recording to which many respondents referred in the course of the fieldwork. Figure 1 represents the overall distribution in each of the twelve island and regional authorities for both the national sample (767 children) and the focused sample (117 children).

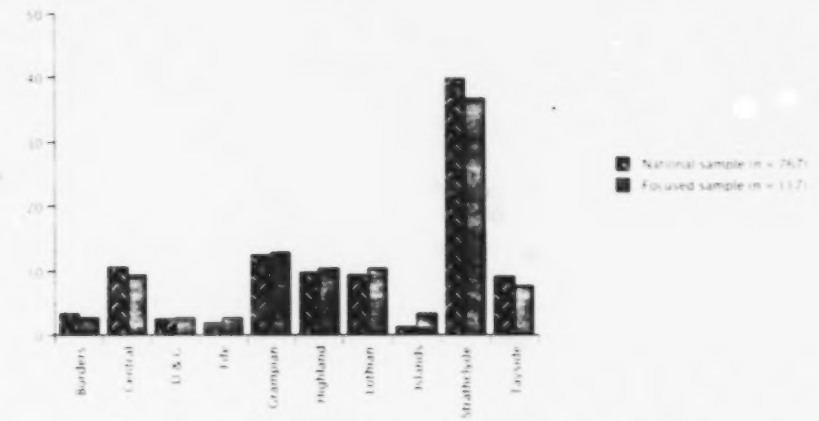
Since the focus of this research was on the criteria for opening Records of Needs, the national survey was used only as a basis upon which to focus on current practice in recording. Nearly three quarters of all Records were opened for pre-school and primary school age children, while a quarter were opened for secondary age pupils. In part, this reflects a surge in recording activity at the primary/secondary transition point; in part, it reflects an increasing awareness

of the importance of the assessment of future needs as those with special educational needs approach the statutory school leaving age of 16+. Consistent with the earlier reports of Thomson *et al* (1989), twice as many boys as girls in the national survey had Records of Needs opened.

This study reported that there was an increase over the past five years of the numbers of recorded pupils in mainstream.

What factors do you think have influenced this trend?

Figure 1: Distribution of Records of Needs in Sample Months



No Records of Needs had been opened in Shetland in any of the four sample months so two were selected randomly in order to represent this area proportionally.

The time taken by authorities to open a Record (or, in England and Wales, Statement) of Needs, has for some time been regarded as an indicator of effective performance, even though it is acknowledged that many factors contribute to the speed or delay in the process. Taking as the starting point the issue to parents of an authority's formal notice of its intention to consider a child for recording, and the date of signing the Record by the relevant officer of an authority as the concluding point, the data show that nearly three quarters of Records were completed within twelve months.

Data were also gathered on the school to be attended. In the national sample, 53.3% of the children were placed in mainstream settings, compared to 58.9% in the focused sample. This makes a significant change in the placement pattern of recorded pupils from the 1989 survey referred to above. It is also consistent with anecdotal reports from education authorities and Ministerial statements (eg Douglas-Hamilton, 1993) that there is an increase in the number of pupils with recorded special educational needs in mainstream schools.

Examination of the Records of Needs within the sample months afforded the opportunity to consider the nature of the special educational needs of the child/pupil as well as the support deployed to ensure optimal interaction with the curriculum. Here, two major problems confront the researcher. First, there is that of attempting to categorise special educational needs within the context of the formal decategorisation of handicap as recommended by the Warnock Report and enacted in subsequent legislation. Second, there is the difficulty

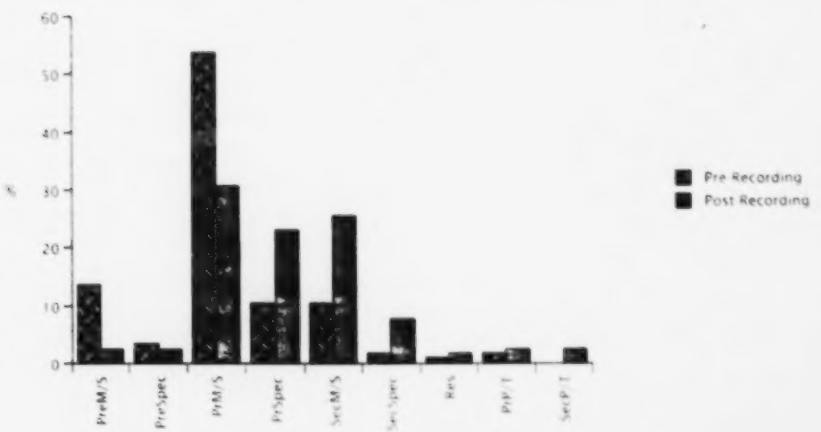
generated by the manner in which a Record of Needs is drafted, in that it is seldom clear which of a range of handicapping conditions was salient in the decision to open the Record. The largest single group identified were those regarded as presenting mild/moderate learning difficulties (just over half in both samples). Those identified as experiencing physical and/or sensory impairments constituted approximately a quarter of both samples, with speech/language difficulties representing a similar proportion. A feature of both the national and focused samples was the proportion (around 20%) of individuals experiencing *specific* learning difficulties. The identification of speech and language therapy provision is clearly the most sought after paramedical resource and the one which excites the greatest debates, as a forthcoming report from a research project also at The University of Edinburgh will demonstrate (Reid *et al*, forthcoming 1996).

A problem for the researchers has been one of identifying the nature of a pupil's special educational needs.

To what extent has decategorisation of handicap been an advantage or a disadvantage in the identification of and meeting special educational needs?

The opportunity was taken to compare school placements of the focused sample prior to and following recording (see Figure 2). The significant pattern was for placements in mainstream settings to be consolidated. That is to say, where a child/pupil had been placed in a mainstream setting at the issue of the statutory letter, the pattern was that the child/pupil would continue to be supported in such a setting once the Record of Needs had been opened. This finding is in marked contrast to that of Thomson *et al* in which the central observation was that recording appeared to trigger a movement *from* mainstream *to* segregated settings.

Figure 2: Placement patterns – Pre and Post Record of Needs (based on focused sample n=117)



Records of Needs: Factors considered by key informants

An innovative feature of the research involved presenting all the key informants a standard set of four vignettes designed so that respondents were giving their responses to the same set of circumstances rather than discussing their own cases. The four vignettes were constructed to represent widely recognised issues relating to the process of recording.

1. **Jane (Down's Syndrome)** *Respondents held the view that this child should be recorded as her needs were seen as long-term and requiring monitoring; the Record was seen to 'carry weight' and, in practice, would make access to additional support more likely.*

2. **Chris (specific learning difficulties)** *Respondents were divided in their opinion about opening a Record for this child, representing as he did 'one of the real grey areas'. Some saw recording as safeguarding parental rights and ensuring regular monitoring and review whilst others thought such cases overburdened the system to the point of breakdown.*

3. **Jill (Friedrich's ataxia)** *This vignette also produced disagreement. For some, the long-term and deteriorating nature of the disability, together with the attendant need for monitoring and multi-agency input, clearly pointed to a Record. Others held the view that once she was currently successfully integrated in a mainstream school and had no attendant learning difficulties, recording was unnecessary.*

4. **Andrew (social, emotional and behavioural difficulties)** *The majority of respondents were against opening a Record for this child, seeing recording as appropriate only if there were specific educational aspects in addition to the emotional difficulties. A minority of respondents saw recording as appropriate, however, given the need for continued monitoring and support.*

From the interview data on the focused sample as well as the vignettes, several factors appeared important in the decision to open a Record of Needs. These are respectively:

- the level of adaptation required in relation to the physical environment;
- the level of adaptation required of the curriculum and its delivery;
- the level of specialised resources required; and
- the level of specialised support required.

Respondents also took into account issues involving parental wishes, the level of functioning of the school and whether the special educational needs were transitory or long-term. These factors, together with information gained from the national data sample, current literature and policy documentation, as well as from the piloting of the proposed matrix aided the researchers in developing a criteria model.

Developing the criteria model

The researchers have come to the view that thinking unidimensionally in terms of a *'continuum of needs'* is inadequate. What is argued is that it is necessary to consider a multi-dimensional approach to meeting special educational needs. Drawing upon the themes which emerged from respondents' views on the practice of recording as well as examining the responses to the vignettes, the authors have conceptualised six distinct aspects, each of equal importance. The

taxonomy proposed focuses on what the writers choose to call *'a pupil's educational support needs'* on six strands. This term is used deliberately to move the emphasis away from the within-child model of a pathology towards a systems-based approach which stresses the extent to which the context has to adjust or change. The six strands conceptualised are indicated below:

The authors have introduced the concept 'educational support needs' instead of 'special educational needs'.

1) the physical environment or context within which the child/pupil can function optimally
2) the curriculum and the mode of delivery and adaptations required
3) the level of support required by the child/pupil to enable her/him to engage optimally with the curriculum
4) access to specialised resources, facilities or technologies required by the child/pupil
5) access to specialised agent(s) required to support the child/pupil
6) the mode of communication required which is more specialised than in 4)

*What value do **you** think this change has to offer?*

For any one child or pupil in the focused sample, and in the vignettes, one or more of these strands was present, each in varying degrees. By the same token, it is argued that we should be appraising the needs of individuals on each of these six strands with the expectation that varying degrees of need will emerge on some or all of those strands. With this tentative formulation of a multi-dimensional model in mind, the researchers developed an approach to determining criteria for opening Records of Needs. This was tested first in two Psychological Services at a national workshop from which participants were asked to report on the model's feasibility in their own authorities.

The criteria model

The model which is now offered has been derived from an examination of current practice, from the qualitative analysis of interview data and from the literature on the effective meeting of special educational needs. Amongst this literature is HM Inspectorate report, *Effective Provision for Special Educational Needs* (SOED, 1994b). The 'steps' model offered in this document is not only consistent with the idea of a process-led approach but is one in which the approach described in this work can be nested. The EPSEN model proposes the following eight steps:

The research has suggested six strands along which a pupil's educational support needs may be determined.

Step 1 – identification of difficulties in learning by teacher
Step 2 – referral to learning support
Step 3 – referral to support services outwith school
Step 4 – consideration of pupil's needs by Educational Psychologist
Step 5 – consider opening a Record of Needs
Step 6 – psychological and medical assessment
Step 7 – multi agency meeting
Step 8 – opening a Record of Needs

How useful a framework is this in your attempts to support individuals?

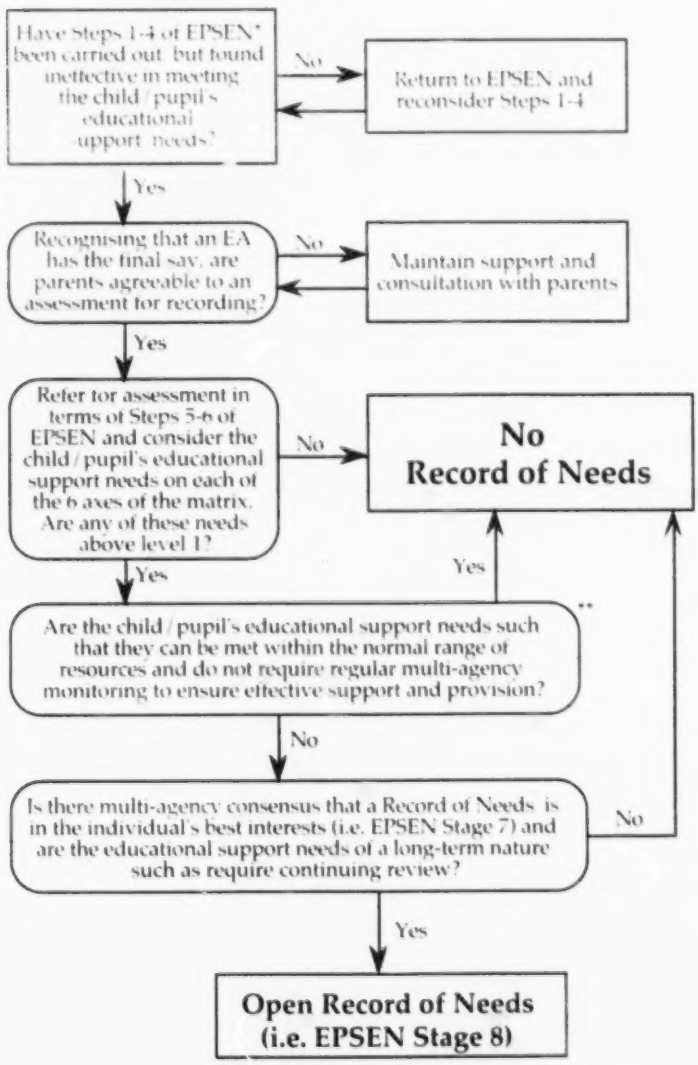
Adapted from SOED (1994b) p38.

The eight-step approach in the EPSEN document has influenced this research.

How successfully do you think the criteria model complements the EPSEN approach?

The criteria model comprises two elements. There is first the decision tree which is offered as an outline to relevant professional groups to work with in consultation with parents. It is to be stressed that this is set in a context of continued audit of available provision, the involvement of the appropriate agencies with parents and school, long before recording is considered, as well as Steps 1-4 of the SOEID 'Steps' model. Further, the decision tree is predicated on the assumption that schools are resourced to meet all needs identified as Level 1 in the matrix (see page 11).

Figure 3a: A Decision Tree

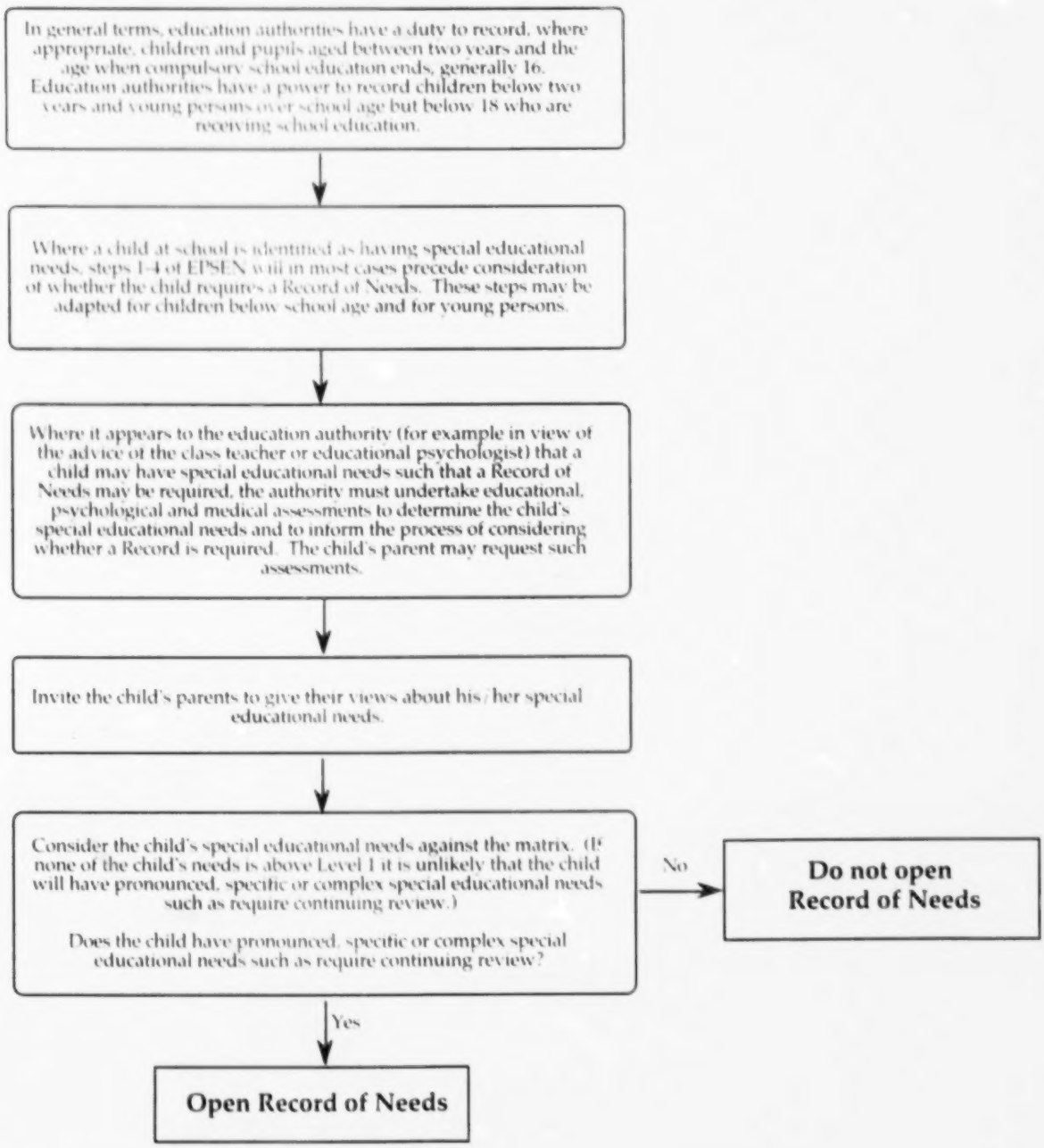

Have Steps 1-4 of EPSEN* been carried out but found ineffective in meeting the child / pupil's educational support needs?
No
Return to EPSEN and reconsider Steps 1-4
Yes
Recognising that an EA has the final say, are parents agreeable to an assessment for recording?
No
Maintain support and consultation with parents
Yes
Refer for assessment in terms of Steps 5-6 of EPSEN and consider the child / pupil's educational support needs on each of the 6 axes of the matrix. Are any of these needs above level 1?
No
No Record of Needs
Yes
Yes
Are the child / pupil's educational support needs such that they can be met within the normal range of resources and do not require regular multi-agency monitoring to ensure effective support and provision?
**
No
Is there multi-agency consensus that a Record of Needs is in the individual's best interests (i.e. EPSEN Stage 7) and are the educational support needs of a long-term nature such as require continuing review?
No
Yes
Open Record of Needs (i.e. EPSEN Stage 8)

*EPSEN refers to SOED (1994b) document Effective Provision for Special Educational Needs

**This step is outside the statutory process but is intended to reinforce the good practice of continued audit as well as regular monitoring of any pupil with educational support needs

It has to be stressed that the decision tree complements the matrix. As such the model does not represent the steps to be taken in the legal process of opening a Record of Needs but rather seeks to distil the data in an accessible form and indicate aspects of good practice. For this reason Figure 3a shows the decision tree with the relevant steps in the legal process shown in Figure 3b.

Figure 3b: Scottish Office Decision Model


In general terms, education authorities have a duty to record, where appropriate, children and pupils aged between two years and the age when compulsory school education ends, generally 16. Education authorities have a power to record children below two years and young persons over school age but below 18 who are receiving school education.
Where a child at school is identified as having special educational needs, steps 1-4 of EPSEN will in most cases precede consideration of whether the child requires a Record of Needs. These steps may be adapted for children below school age and for young persons.
Where it appears to the education authority (for example in view of the advice of the class teacher or educational psychologist) that a child may have special educational needs such that a Record of Needs may be required, the authority must undertake educational, psychological and medical assessments to determine the child's special educational needs and to inform the process of considering whether a Record is required. The child's parent may request such assessments.
Invite the child's parents to give their views about his/her special educational needs.
Consider the child's special educational needs against the matrix. (If none of the child's needs is above Level 1 it is unlikely that the child will have pronounced, specific or complex special educational needs such as require continuing review.)
Does the child have pronounced, specific or complex special educational needs such as require continuing review?
No
Do not open Record of Needs
Yes
Open Record of Needs

The level of needs matrix is set out in Figure 4.

Considering a pupil whom you regard as having educational support needs, how helpful is the model to you?

The Scottish Office Education and Industry Department recommends that education authorities take care to ensure that in using the decision tree they take proper account of the statutory requirements and do not base decisions on criteria that are outwith the provisions of the Act. Section 60(2) of the Act provides that the test to be applied in deciding whether a Record of Needs must be opened in any particular case is whether the special educational needs of the child or young person concerned are pronounced, specific or complex such as require continuing review. In the SOEID's view, this means the test is the nature and degree of the special educational needs in each particular case — *not* whether the needs can or cannot be met within the range of resources normally available in the area. SOEID also considers that while it would be good practice to seek a consensus of professionals involved in the assessment process and the child's parents as to whether the statutory test has been met, the Act does not require consensus and it is for the education authority to take the decision as to whether a Record of Needs must be opened.

The second element is the matrix (shown as Figure 4). This is offered as a basis against which relevant professionals conduct their assessments of a child/pupil's level(s) of needs on each of the six strands.

It is to be stressed that the assumption is made that 'Level I' represents the minimum level of resourcing available in all schools and that it would be highly unlikely that a Record of Needs would be considered for any individual whose educational support needs are at this level on all of the strands. Inspection of the matrix shows that each strand represents an individual's educational support needs in a graduated series of levels, from 'I' indicating minimalist support needs to 'IV' which represents an extensive range of support needs and the ways in which they might be met. The emphasis, therefore, is on providing the steps which might be taken by schools and other agencies in supporting the child/pupil. This proposed model is an attempt to establish some uniformity of practice across the country. The view of the researchers is that it can be supported both theoretically and empirically, and that it offers a possible way forward in determining criteria by which a Record of Needs may be opened.

Conclusions

One consequence of the limited research time available was that a wider constituency of 'actors in the drama' was not consulted. For example, parents and teachers were not contacted, nor were Social Work Department and Careers Service colleagues. This is a matter of some regret since, in a truly multi-agency context, these groups would be likely to have pertinent comments to make. Therefore, the writers would wish to make three specific recommendations in the event that the approach described above is considered worth adopting.

Figure 4: A level of needs matrix

Needs relating to	Level I Needs	Level II Needs	Level III Needs	Level IV Needs
The physical environment	The ordinary nursery/class/school is appropriate	The child/pupil's needs are such that some special features are required in the nursery, class or school accommodation. For example, access to a resource base may be required for the delivery of structured programmes etc. for some of the time. The child may require ramps and other aids	A specialist facility may be required, eg a resource base/unit within a mainstream setting, for a substantial portion of the child/pupil's time in nursery, primary or secondary school	A highly specialised environment, eg a special unit/school or nursery, is required for all the time the child/pupil is in the setting dealing with a combination of profound sensory loss, physical disability and/or disruptive behaviour
The curriculum and how it is delivered	Ordinary curriculum with minor features of differentiation in relation to S-I-T guidelines, such as specific objectives for reading, listening, etc. Alternative methods of presentation within the group	Significant differentiation is needed in one or some areas of the S-I-T curriculum requiring structured and clearly targeted programmes in learning and/or behaviour which are subject to termly review	Very substantial and specialised differentiation is needed in a wide area of the S-I-T curriculum such as requires weekly review and consultation with agencies external to the school on an individualised teaching plan	The curriculum which the child follows is radically different from that provided in the mainstream in that it requires daily review and consultation with agencies external to the school in order to establish the pre-requisites for learning, eg cognitive, sensory development
The level of child/pupil support required	Levels of child/pupil support/contact in individual/group settings which are normally available, with short periods with the classroom aide in small groups	Direct individual support by Learning Support staff in small group. Use of scribe/reader. Short term behaviour support to avoid causing stress to self/others	Enhanced level of individual child/pupil/aide contact required for some of the time, eg primary care needs (toilet, catheterisation etc), behaviour support	Child/pupil requires enhanced level of teacher and/or aide contact continuously. Extended primary care needs, continuous behaviour support, longer term life plan of total care needs
The level of specialised resources, facilities and technologies required	Ordinarily available resources, facilities and/or technology shared with groups of children/pupils on a time limited basis, eg word processors/personal computers	Ordinarily available resources, facilities and/or technology required by the child/pupil individually on a time limited basis, eg word processors/personal computers	Highly specialised resources, facilities or technology not normally available and deployed/designed for the child/pupil's specific use on a time limited basis	Highly specialised resources, facilities or technology not normally available and deployed/designed for the child/pupil's specific use on a continuous basis
The level of specialised support agent(s) involvement	Needs identified and monitored by class teacher and within-school support staff, eg Learning Support in mainstream setting. Advice only from other external agent(s), eg Regional Authority Psychological Service, speech and language therapy, behaviour support, service for the sensorily impaired etc	Agreed and monitored support and advice from agent(s) cited in Level I, with clear objectives delivered by teacher and support staff deployed to support/teach child/pupil	Agreed, monitored and delivered support on a regular basis to small groups of children/pupils by specialist agent(s) over and above learning support, and engaging one or all of external agent(s) cited in Level I	Agreed, monitored and delivered support on an intensive basis on an individualised basis in a specialised setting, eg special unit, base or school, by specialist agent(s) as cited in Level I
Mode of communication	Ordinary oral/aural and written with appropriate support from relevant aids		Highly specialised methods are required by the child/pupil, eg sign language, braille etc	

These are:

- that the model (along with the Scottish Office model and associated text) be widely circulated amongst parent and professional groups (in addition to those reported in this document) for their comment;
- that a programme of in-service activity be initiated in schools and Psychological Services along the lines developed for the national workshop/seminar in order that key professionals involved with those with educational support needs be familiar with the philosophy, rationale and procedures advocated above; and
- that the model be given prominence in any curricular development to support learning for *all* pupils with educational support needs, in order that the principles of assessment, monitoring and review be consistently applied.

The model advocated above is not only multidimensional, eschewing as it does the narrow, linear concept of the continuum of needs, but it implies also a multi-agency approach to the assessment of *all* pupils with educational support needs – not just the so-called 'Warnock 2%'. Concentration on this group (implicit in the current guidance literature) holds pupils' special educational needs as absolute. Woods, 1994 has advanced a trenchant criticism of this. Writing in the context of English legislation where 'Statements' rather than 'Records of Needs' exist and where, as in Scotland, Educational Psychologists 'orchestrate' the procedures, he anticipates a world without Statements (or indeed Records) of Needs:

> *In a world without statementing, psychologists would work closely alongside their individual schools helping to prepare annual student progress (SEN) audit details ... in order to improve school's management of all pupil learning ...*
>
> *(p91)*

Full report

Further details of the study are in the full report — *Criteria for Opening Records of Needs* — available from the Department of Education, The University of Edinburgh, 10 Buccleuch Place, Edinburgh EH8 9JT. Price £8.00.

The views expressed in this paper are those of the authors and do not necessarily reflect those of The Scottish Office Education and Industry Department who funded the study.

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